

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

GLORIA SWEENEY,
Plaintiff,

v.

DD&S EXPRESS, INC. and JOHN DOE,
Defendants.

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CIVIL ACTION NO. 6:23-cv-233

JURY DEMANDED

DEFENDANT' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Please take notice that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, DD&S EXPRESS, INC., Defendant herein, files this Notice of Removal to this Court regarding the state court action pending in the 369th Judicial District Court in Leon County, Texas invoking this Court's diversity jurisdiction, on the grounds explained below.

BACKGROUND

1. This matter arises from an alleged automobile accident that Plaintiff contends to have occurred on August 30, 2021. In her Original Petition, Plaintiff, Gloria Sweeney alleges that on or about August 30, 2021, she was involved in a motor vehicle collision with an unidentified individual said to have been employed with Defendant. On March 14, 2023, Plaintiff filed her Original Petition alleging negligence and other claims against Defendant in the 369th Judicial District Court in Leon County, Texas bearing Cause No. 23-0077CV (the "***State Court Action***"). *See* Plaintiff's Original Petition, attached hereto as **Exhibit B**.

2. The Petition alleges the Plaintiff resides in Texas. *See* Exhibit B. Plaintiff is a Texas citizen.

3. The Petition alleges Defendant is a citizen of Maryland. DD&S EXPRESS, INC. is organized in Maryland and has its principal place of business in Maryland.

4. Plaintiff served Defendant on March 17, 2023.

5. Pursuant to 28 U.S.C. § 1446(a) a copy of all process, pleadings, and orders served upon Defendant in the State Court Action are incorporated herein under **Exhibit B**.

6. Pursuant to 28 U.S.C. § 1446(d), promptly after filing and contemporaneous with the original Notice of Removal, Defendant is giving written notice of the removal to Plaintiff through the attorney of record, and to the clerk of the 369th Judicial District Court, Leon County, Texas.

7. Pursuant to 28 U.S.C. § 1446(b), because this Notice of Removal is being filed within 30 days of service of Plaintiff's Petition, it is timely.

EXHIBITS INDEX

Exhibit A Index of Matters Being Filed

Exhibit B All executed process in this case, including Docket Sheet information via email from State Court Action; Plaintiff's Original Petition; Return of Service of Citation served on DD&S EXPRESS, INC. on or about March 17, 2023, and Defendant's Original Answer.

Exhibit C List of all Counsel of Record

Exhibit D Civil Cover Sheet

JURISDICTION

8. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and the matter is removable to this Court pursuant to 28 U.S.C. § 1441(a) because there is complete diversity of citizenship between the properly joined and served parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* Plaintiff's Original Petition, ¶5.

A. DIVERSITY OF PARTIES

9. Plaintiff is domiciled in Freestone County, Texas, where she alleges to reside in the Original Petition.

10. Defendant is organized, has its principal place of business, or is otherwise domiciled

under the laws of the States of Maryland. Defendant is therefore not a citizen of Texas. *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 317 (2006)(“under 28 U.S.C. §1332(c)(1), a corporation is deemed to be a citizen only of any State by which it has been incorporated and of the State where it has its principal place of business”)(internal quotations omitted).

11. Accordingly, there is complete diversity between the Texas Plaintiff and the Non-resident Defendant pursuant to 28 U.S.C. § 1332(a).

B. AMOUNT IN CONTROVERSY

12. Based on Plaintiff’s pleading, the amount in controversy plainly exceeds \$75,000.00, exclusive of interest and costs. Specifically, the Petition alleges “Plaintiff is seeking monetary relief over \$250,000 but not more than \$1,000,000.” *See* Exhibit B. Accordingly, the amount in controversy requirement of 28 U.S.C. § 1332(b) is satisfied.

CONCLUSION

11. Removal of this action under 28 U.S.C. § 1441(a) is proper as the district courts of the United States have original jurisdiction over the matter pursuant to 28 U.S.C. § 1332, and as all requirements for removal under 28 U.S.C. § 1446 have been met.

WHEREFORE, Defendant respectfully prays that the State Court Action be removed and placed on this Court’s docket for further proceedings as though it had originated in this Court and that this Court issue all necessary orders. Defendant further requests any additional relief to which they may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on all counsel of record by electronic filing on March 31, 2023.

/s/ K. Stockberger
Kristopher M. Stockberger